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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,797	07/23/2001	Jacques Diaz	3806.0510-00	2702

7590 03/11/2003

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EXAMINER

KRISHNAN, GANAPATHY

ART UNIT PAPER NUMBER

1623

DATE MAILED: 03/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/909,797

Applicant(s)

DIAZ ET AL.

Examiner

Ganapathy Krishnan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-16, 18-37, 39, 40, 42, 43, 45 and 46 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5 and 7-9 is/are rejected.
- 7) ☒ Claim(s) 4, 6, 38, 41 and 44 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

The amendment filed on 20 December 2002 has been received and entered into the record. The following information provided in the amendment affects the application:

1. Claim 17 has been cancelled.
2. Claims 2, 10, 18, 20 and 44-46 have been amended.
3. New claims 47-55 have been added.

Newly submitted claims 47-55 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: claims 47-55 are directed to treating and preventing the proliferation of smooth muscle cells or angiogenesis in a patient in need of such treatment, method of treatment with a neuroprotective agent and method of treatment with a medicament which are different from treating arterial and venous thrombosis.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 47-55 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The informality objection of claim 2 and the 35 USC 112 rejections of claims 44-46 are withdrawn in view of the applicant's amendments to these claims.

### ***Claim Rejections - 35 USC § 103***

Claims 1-3, 5, 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mardiguian (AU-B-70519/81) in combination with Mardiguian (USPN 6,384,021), Mardiguian (USPN 4,440,926), Galezowski et al (Journal of Chemical Society, Faraday Transactions 1997,

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93(15), 2515-2518) and Weitz et al (USPN 6,075,013) for the reasons of record as set forth in the office action dated 30 July 2002.

Applicants argue that compositions of claim 1 comprising at least one alkali or alkaline-earth metal salt of at least one sulfated polysaccharide having a mean molecular weight in the range of 1500-3000 daltons, an anti-Xa activity in the range from 94-150 IU/mg, an anti-IIa activity in the range of up to 10IU/mg, and a ratio of anti-Xa : anti-IIa activity of greater than 10:1 are not disclosed.

Mardiguian (USPN 6,384,021) discloses compositions (see claims) comprising sulfated polysaccharides. The table in column 5 discloses the anti-Xa and anti-IIa activities of the sulfated polysaccharides which are within the range of 94-150 IU/mg and with anti-Xa : anti-IIa ratios greater than 1:10. The distribution of molecular weights also falls in the range of 1500-3000. The structure shown in column 2 shows sodium salt. The repeating unit in the chain n is between 1 and 12 and the chain has a 4,5-unsaturated glucuronic acid 2-O-sulfate unit on one of the ends. Hence, the limitations of claims 1-3, 5 and 7-9 are deemed to be met.

The rejection of claim 4 is withdrawn but is objected to since it is dependent on claim 2 which still stands rejected.

The objection of claim 6 is maintained.

In view of the amendment to claim 10, which now recites specific bases used in the said method, the rejection of claim 10 is withdrawn. This also obviates the rejections of claims 11-16, 18-37, 39, 40, 42, 43, 45 and 46 under 35 USC 103.

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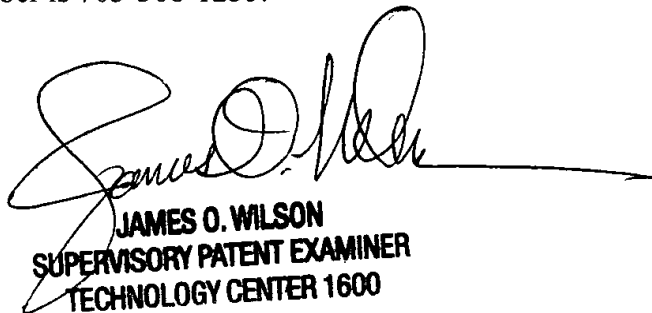
Claims 38, 41 and 44 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ganapathy Krishnan whose telephone number is 703-305-4837. The examiner can normally be reached on 8.30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 703-308-4624. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3014 for regular communications and 703-305-3014 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

GK  
March 10, 2003



**JAMES O. WILSON**  
**SUPERVISORY PATENT EXAMINER**  
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